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**DEPARTMENT OF ENVIRONMENTAL PROTECTION
CLIMATE AND ENVIRONMENTAL MANAGEMENT
AIR QUALITY MANAGEMENT**

Proposal Name: Sulfur in Fuels

Proposed Amendments: N.J.A.C. 7:27-9.1 through 9.3
Authorized by: Bob Martin, Commissioner, Department of Environmental Protection
Authority: N.J.S.A. 13:1B-3(e), 13:1D-9 and 26:2C-1 et seq.
Calendar Reference: See Summary below for explanation of exception to calendar requirement.
DEP Docket Number: 06-11-03
Proposal Number: PRN 2011-

A **public hearing** concerning this proposal and the proposed revision to the State Implementation Plan (SIP) will be held on May 16, 2011 at 10:00 A.M. at:

New Jersey Department of Environmental Protection
First Floor Hearing Room
401 East State Street
Trenton, New Jersey

Directions to the hearing room may be found at the Department's website, <http://www.state.nj.us/dep/where.htm>.

Submit written comments by June 3, 2011 to:

Alice A. Previte, Esq.
Attn: DEP Docket No. 06-11-03
DEP - Office of Legal Affairs
Mail Code 401-04L
401 East State Street, 4th Floor
PO Box 402
Trenton, New Jersey 08625-0402

Written comments may also be submitted at the public hearing. It is requested (but not required) that anyone submitting oral testimony at the public hearing provide a copy of any prepared text to the stenographer at the hearing.

The Department of Environmental Protection (Department) requests that commenters submit comments on CD or DVD as well as on paper. Submittals on CD or DVD must not be

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access-restricted (locked or read-only) in order to facilitate use by the Department of the electronically submitted comments. Microsoft Word 6.0 or above is preferred. Macintosh formats should not be used. Each comment should be identified by the applicable N.J.A.C. citation, with the commenter's name and affiliation following the comment.

This rule proposal can be viewed or downloaded from the Department's website at <http://www.state.nj.us/dep/rules>.

The agency proposal follows:

Summary

Since the Department has provided a 60-day comment period on this proposal, the proposal is exempted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

In September 2010, the Department promulgated amendments to the Sulfur in Fuels rules, N.J.A.C. 7:27-9, to lower, and thus make more stringent, the maximum sulfur content standard for fuel oil stored, offered for sale, sold, delivered, exchanged in trade for use, or used in New Jersey. (See 41 N.J.R. 4156(a), 42 N.J.R. 2244.) With regard to No. 2 and lighter fuel oil, all fuel oil stored, offered for sale, sold, delivered, exchanged in trade for use, or used in New Jersey must contain no more than 500 parts per million (ppm) sulfur beginning July 1, 2014. On or before July 1, 2016, all such No. 2 and lighter fuel oil must contain no more than 15 ppm sulfur content. (N.J.A.C. 7:27-9.2)

The sulfur content standards are intended to help the State attain and maintain the Federal health-based National Ambient Air Quality Standards (NAAQS) for fine particles (particles smaller than 2.5 microns in diameter (PM_{2.5})), sulfur dioxide (SO₂) and ozone, and to reduce haze in New Jersey and the region. The rules are also part of a regional effort to reduce regional haze and fine particles through the implementation of a low sulfur fuel strategy. New Jersey adopted the sulfur content standards as part of an agreement among the members of the Mid-Atlantic/Northeast Visibility Union (MANE-VU). The MANE-VU membership includes Washington, D.C., Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire and Maine, and two Native American tribes (the Penobscot Indian Nation and the St. Regis Mohawk Tribe).

New Jersey committed to reducing the sulfur content of fuel oil as part of its SIP proposal to demonstrate attainment of the fine particles NAAQS, dated June 16, 2008 (Fine Particles SIP). Because the within proposed amendments will modify the compliance deadline in the previously-adopted rules, this rulemaking constitutes a proposed amendment to the SIP.

Hess Corporation (Hess) requested, in a comment on the prior proposal to implement more stringent sulfur content standards, that the Department amend the rules to issue a temporary waiver of the sulfur in fuel standards, allowing a refinery to produce high sulfur No. 2 or lighter

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fuel oil until the next scheduled closing of the facility for maintenance (also known as a “turn-around”) if a facility has a turn-around scheduled within one year of July 1, 2014. (See Comment 117, 42 N.J.R. 2261.) A turn-around is a closure of a refinery, usually over a period of two weeks or more, during which the production equipment of a refinery unit is shut down to complete scheduled repairs or maintenance. A turn-around can be scheduled as many as four or more years in advance.

According to Hess, the timing of the operative date of the standards could necessitate two facility shut downs for some refineries that have a turn-around already scheduled. The refinery would undergo not only the scheduled turn-around, but also an additional shut down to install equipment necessary to comply with the standards. Each shut down costs a refinery millions of dollars. Hess indicated that the second shut down could cost its Port Reading, NJ, facility in the low millions of dollars. (See Comment 117, 42 N.J.R. 2261.)

Hess requested that the Department provide an extension of the compliance deadlines for in-State refineries, and for small refineries. The Department considered these comments and determined it is not appropriate in this instance for the Department to limit an extension to only in-State or small refineries. As to small refineries, the Department explained in its response to Comment 116 (42 N.J.R. 2261) in the 2010 adoption that if the goal is to avoid excess emissions during a facility start-up and shut down, and assurance of an adequate supply of fuel oil during the transition period of implementation to the new, more stringent standard, then limiting an extension of the compliance date to only small facilities does not serve that goal. It is also not appropriate to limit the extension only to in-State refineries. The cost and impact of multiple shut downs would have a comparable economic impact on out-of-State refineries, and a negative impact on the air quality in other states.

In consideration of Hess’ comment, the Department is proposing amendments to N.J.A.C. 7:27-9.3(c) to allow any refinery, regardless of size, that has a turn-around scheduled between July 1, 2014 and July 1, 2015 to obtain an extension of the deadline for compliance to meet the 500 ppm sulfur in fuel standard for up to one year. The extension applies to a qualifying refinery in any state that sells distillate fuel in New Jersey. The Department seeks to implement the interim standard with the least disruption to the market as possible, and to avoid refineries having to undergo two shut downs within a one-year period. Thus, a qualifying refinery may continue to sell No. 2 or lighter fuel oil that does not meet the July 1, 2014 standard, and others may continue to “store, offer for sale, sell, deliver or exchange in trade, for use in New Jersey” otherwise non-complying fuel from that refinery, until the refinery produces complying fuel and the supply of otherwise non-complying fuel is exhausted. (N.J.A.C. 7:27-9.2(a)) Likewise, persons can use otherwise non-complying No. 2 or lighter fuel from that qualifying refinery until the supply is exhausted. (N.J.A.C. 7:27-9.2(b))

The availability of an extension will reduce emissions that would result if the refinery were required to shut down and restart more than once. Any time a refinery shuts down and restarts, there is an increase in emissions of air contaminants above what is emitted when a refinery is operating at a steady or continuing state. Hess stated that the Port Reading refinery

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typically experiences extra emissions of two to 10 tons, in total, of carbon monoxide, volatile organic compounds, sulfur dioxide, and nitrogen oxide during start-up and, on much less frequent occasions, experiences extra total emissions as high as 60 tons of these compounds. The proposed amendments would avoid these emissions from a second shut down and start-up. These compounds contribute to the ozone and fine particulate levels found in ambient air.

Allowing for the extension of the interim compliance date in 2014, but maintaining the July 1, 2016 compliance date for the more stringent standard, also meets the Department's goal of assuring a smooth transition to the final, more stringent sulfur content in distillate fuel standard. The Department urges all refiners to add the capacity to remove sulfur from fuel oil and achieve the 15 ppm sulfur content standard at the earliest possible date.

Proposed amended N.J.A.C. 7:27-9.3 requires the owner or operator of a refinery to submit documentation to the Department on or before July 31, 2013, indicating that the refinery could not accomplish the modification to produce No. 2 and lighter fuel, also called distillate fuel, meeting the 500 ppm sulfur standard by July 1, 2014 without causing an additional shut down and undue hardship to the facility. The refinery must certify that the equipment to remove sulfur from fuel was not available to be connected to the refinery process at an earlier date or at the time of a planned earlier shut down. An estimate of the undue hardship, whether monetary or otherwise, must be provided as part of this justification. The refinery must also certify that any No. 2 or lighter fuel produced by the refinery within 30 days of restart, but not later than July 1, 2015, will meet the 500 ppm sulfur content standard. Thus, if a refinery shuts down and then restarts on August 30, 2014, the No. 2 or lighter fuel from that refinery must meet the reduced sulfur standard on or before September 29, 2014. If the refinery shuts down and then restarts on June 15, 2015, the No. 2 or lighter fuel from that refinery must meet the standard on or before July 1, 2015.

The documentation provided to the Department must be certified by a responsible official of the facility. A responsible official is defined in N.J.A.C. 7:27-1.4 and the language used by the responsible official to certify the submittal is contained in N.J.A.C. 7:27-1.39(a)2.

The refinery must also place a notice upon all product transfer documentation that the fuel oil contains higher than 500 ppm sulfur fuel. The product transfer documentation includes any document, whether on paper or by electronic transmission, that follows a shipment of fuel oil from its production and distribution to its final end use. The notice must contain a statement that the fuel oil contains higher than 500 ppm sulfur fuel oil, must name the refinery where the fuel oil was produced, and must name the date upon which the exception to the 500 ppm sulfur content standard expires. The Department does not wish to specify how the refinery is to provide the notice on the product transfer documentation, as the refinery will have the flexibility to develop the notice depending on its particular circumstances. A refinery manager may wish to stamp the notice onto paper forms, place a printed label on the document, or place the notice on revised computer-printed forms. Any of these would be acceptable to the Department, as long as the notice is visible and can be clearly read by the recipient.

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All documentation sent to the Department by the refinery must be received by the Department by the July 31, 2013 date. The Department seeks to ensure that there is no confusion as to which refineries properly receive an extension of the date to comply with the 500 ppm sulfur content in distillate fuel standard. Accordingly, the Department recommends personal delivery, certified mail, or other means by which receipt may be documented. The Department intends to allow extensions for any refinery that presents complete and properly certified documentation, as described in the proposed amendments to N.J.A.C. 7:27-9.3(c), to the Department by July 31, 2013. The extension is effective upon the Department's receipt on or before July 31, 2013 of a complete and properly certified notice of extension from a refinery. The Department will rely upon the notification from the refinery that it will not be meeting the July 1, 2014 date to produce 500 ppm sulfur content distillate oil to track compliance with the rule at the fuel production level.

The Department is also proposing to amend N.J.A.C. 7:27-9.3 to ensure that the Department can enforce the proposed new provisions by determining which fuel being stored or used in New Jersey has been granted a waiver of the deadline to meet the low sulfur fuel requirements. The proposed amendments would require anyone using or storing No. 2 or lighter fuel with a sulfur content greater than 500 ppm from a refinery having an extension of the July 1, 2015 standard to maintain the product transfer documentation received from the refinery on the site where the higher sulfur distillate fuel oil is used or stored. This documentation must be maintained on-site for at least the period of time when the fuel oil is being used or stored. If the person transfers, distributes or moves the high sulfur distillate fuel oil to another site, a copy of the product transfer documentation must accompany that transfer, distribution or move. The proposed amendments require that the product transfer documentation be made available to the Department upon request, such as during an inspection.

If No. 2 or lighter fuel oil from the refinery does not meet the standards by the extended date, the penalties for a violation of N.J.A.C. 7:27-9, as specified in N.J.A.C. 7:27A-3.10, would apply if the fuel is stored, offered for sale, sold, delivered or exchanged in trade for use in New Jersey (N.J.A.C. 7:27-9.2(a)) or used in New Jersey (N.J.A.C. 7:27-9.2(b)).

The Department is proposing a definition of turn-around at N.J.A.C. 7:27-9.1, to specify the maintenance activity at the refinery that will make the refinery eligible for the extension of time. The Department is also proposing to amend N.J.A.C. 7:27-9.2(a) and (b) in order that the fuel oil produced by the refinery can be stored, offered for sale, sold, delivered or exchanged in trade for use in New Jersey, and also used in the State. The Department is also modifying the headings of Tables 1A and 1B, and the title of section N.J.A.C. 7:27-9.3, to refer to the potential exception and extension at proposed amended N.J.A.C. 7:27-9.3.

Social Impact

The proposed amendments will have a neutral social impact on the residents of New Jersey. The Department anticipates that most refineries will be able to continue to produce and

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distribute No. 2 or lighter fuel oils that meet the current sulfur in fuel oil standards without the proposed extension, thereby making such fuel available in the marketplace.

A portion of the anticipated benefits from a 500 ppm sulfur fuel may be delayed for up to one year, depending on how many refineries have turn-arounds in this one year period and take advantage of this option to extend the deadline. Although the emission reduction from reducing the sulfur content in fuel oils may be delayed, the extra emissions that occur during the start-up and shut down of a refinery's process operations will be avoided.

Although there may be a net increase in emissions, as discussed in the Environmental Impact below, the proposed amendments will provide greater certainty that an adequate supply of No.2 or lighter fuel oil will be available for the marketplace. By allowing for an extension of the date to supply lower sulfur fuel oil, refineries can avoid two shut downs in one year, thereby avoiding potential shortages in supply.

Economic Impact

The Department anticipates that the overall economic impact of the proposed amendments will be positive. The proposed amendments will avoid multiple shut downs of refineries, both in and out of State. Multiple shut downs within a short period of time could be potentially disruptive to the supply of No. 2 or lighter fuel oil within New Jersey and the region. The proposed amendments will save at least one New Jersey refinery, the Hess Corporation's Port Reading refinery, several million dollars from not having to shut down twice. More could be potentially saved if other refineries avail themselves of this extension.

Consumers of No. 2 and lighter fuel oil will avoid potential price spikes that might result if the supply of such fuel were reduced as a result of multiple shut downs at refineries.

To avoid having an inadequate supply of fuel oil to meet their customers demands, refiners typically try to stagger the turn-arounds at their refineries, so that another of their own refineries will be operating during that period to meet demand. The refiner is faced with increased transportation costs to move or transport an adequate supply of fuel oil from these other refineries to meet customer demand. These costs to the refiners could be in the low millions of dollars.

Environmental Impact

The Department anticipates that the proposed amendments will have no long term environmental impact. Refiners that have a scheduled turn-around within one year of July 1, 2014 will be allowed to provide fuel oils that meet the pre-July 1, 2014 standards for sulfur in No. 2 and lighter fuel oil. Although the positive environmental benefits of the interim 500 ppm sulfur in fuel oil standard will not be fully realized as promptly from these refineries, the refineries will not backslide to produce No. 2 and lighter fuel oil for New Jersey that has a higher sulfur content than under the standard in effect prior to July 1, 2014. The environmental impacts

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from the higher sulfur content standard in effect prior to July 1, 2014, as described in 41 N.J.R. 4158, will be maintained. The proposed amendments will ensure a smooth transition to the 15 ppm sulfur in fuel standard for No. 2 and lighter fuels by July 1, 2016, along with the environmental benefits that the 15 ppm sulfur in fuel oil standard will provide.

As part of the promulgation of the existing rules to lower the sulfur content in fuel oil, the Department estimated that lowering the allowable sulfur specification in high sulfur heating oil (No. 2) from 2,000 and 3,000 ppm to 500 ppm would reduce SO₂ emissions by 1,030 tons per year in New Jersey. (41 N.J.R. 4164) The proposed amendments will delay a portion of the SO₂ emissions reductions, the amount of which will depend on the number of refineries that have turn-arounds in the one-year time period and avail themselves of the extension. Because the extension is for no more than one year, but no later than July 1, 2015, all anticipated emission reductions will be achieved by July 1, 2015, at the latest.

Although the proposed amendments may delay some of the reductions in SO₂ by up to one year, extra emissions from the Hess Port Reading refinery alone of up to 60 tons of carbon monoxide, volatile organic compounds, nitrogen oxides and SO₂ will be avoided as a result of reducing the number of shut downs and start-ups of the Hess refinery.

If the Hess Port Reading refinery were to obtain an extension of the July 1, 2014 date to produce 500 ppm distillate fuel, consumers using the higher sulfur content fuel from the refinery would emit up to 12.88 tons per month more SO₂ than they would if Hess did not obtain an extension. A total of 1,030 tons per year reduction in SO₂ emissions is anticipated from the 500 ppm sulfur content standard in the existing rules. (41 N.J.R. 4163) Hess states that it provides up to 15 percent of the northeastern distillate fuel market from the Port Reading refinery and the Hovensa refinery in St. Croix, which is partly owned by Hess. Attributing this 15 percent share to the Hess Port Reading refinery (a conservative figure since a portion of that 15 percent is attributable to Hovensa), and assuming that 15 percent of SO₂ emissions reductions would be delayed or foregone as a result of an extension granted to Hess, the estimated delayed or foregone SO₂ emissions would be 154.5 tons per year. (Calculated as 1,030 tons per year times 0.15 - or 15 percent - of the northeast market attributed to the Port Reading refinery distillate sales). The monthly foregone reductions were obtained by dividing the annual foregone emission reductions of SO₂ by the twelve months in a calendar year (154.5 divided by 12).

Hess also communicated to the Department that the turn-around of the Port Reading refinery is to occur in April 2015, or nine months after the July 1, 2014 deadline to produce 500 ppm distillate fuel. Therefore, the proposed extension would result in nine months of foregone SO₂ emissions from Hess. As applied to the Hess Port Reading refinery, the maximum total foregone emissions of SO₂ that would result from the proposed amendments would, therefore, be 116 tons of sulfur dioxide emissions (12.88 tons per month times nine months between July 1 and April 1). Using Hess's estimate that a refinery shut down and restart results in emission of between 10 and 60 tons of pollutants that affect fine particulate or ozone levels in New Jersey (see Summary, above) and assuming a ton of each of these pollutants produce an equal environmental effect, the net emissions of SO₂ as a result of the proposed amendments is

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between 56 and 106 tons (116 tons foregone, less the 10 to 60 tons of pollutants from a shut down and restart of the Hess Port Reading refinery).

Federal Standards Statement

Executive Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c.65) require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. No Federal law establishes standards or requirements regarding the contents of sulfur in the fuel oil regulated by N.J.A.C. 7:27-9. Although the Department's sulfur content standards for fuel oil are Federally enforceable as part of New Jersey's State Implementation Plan, the proposed amendments to N.J.A.C. 7:27-9 are not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards or Federal requirements. Moreover, there is no comparable Federal standard exceeded by this rulemaking and no Federal regulatory scheme that might be perceived to be duplicated or overlapped by this rulemaking. Accordingly, Executive Order No. 27(1994) and P.L. 1995, c.65 do not require a Federal standards analysis.

Jobs Impact

The Department anticipates that the proposed amendments will have a no impact on employment in the State.

Agricultural Industry Impact

The Department anticipates that the proposed amendments would have no adverse impact on the agricultural industry. The foregone emission reductions will be for less than one year and the overall effects of this rule will reduce air pollution that adversely impact plants.

Regulatory Flexibility Analysis

As required by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has evaluated the reporting, recordkeeping and other compliance requirements that the proposed rulemaking would impose upon small businesses. The proposed amendments allow some refineries additional time to comply with the sulfur standard for No. 2 and lighter fuel oil. No refinery in New Jersey is a small business, as defined by the Regulatory Flexibility Act. The proposed rules allow small businesses that store, offer for sale, sell, deliver or exchange in trade No. 2 or lighter fuel oil for use in New Jersey, or use No. 2 or lighter fuel oil, to continue to utilize No. 2 or lighter fuel oil from refineries that make use of the extension.

The proposed amendments require anyone who stores or uses distillate fuel from a refinery that has obtained an extension of the July 1, 2014 date to provide 500 ppm sulfur content distillate oil to maintain product transfer documentation on-site. The product transfer documentation is already maintained as a normal business practice. The proposed amendments

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specify that the product transfer documentation, indicating that the distillate fuel oil is of a higher sulfur content than would otherwise be allowed under the rules, must be kept on site only for as long as the fuel oil is being used or stored on site. The Department does not anticipate that the proposed recordkeeping requirement will result in any cost to small businesses since fuel oil suppliers already keep records of the sulfur content in fuel.

The proposed amendments impose no other compliance, recordkeeping, or reporting requirements on such small businesses.

Smart Growth Impact

Executive Order No. 4 (2002) requires State agencies that adopt, amend or repeal State regulations to include in the rulemaking document a Smart Growth Impact statement that describes the impact of the proposed amendments on the achievement of smart growth and implementation of the State Development and Redevelopment Plan (State Plan).

The proposed rulemaking does not relate to the State's official land use and development policies in a way that would either encourage or discourage any development or redevelopment in this State contrary to the guiding principles of the State Plan. As a result, the Department does not expect this rulemaking to have an impact on the State's achievement of smart growth, or implementation of the State Plan.

Since the proposed amendments implement reductions of SO₂ emissions from the combustion of fuel oil, thereby helping to protect air quality, the proposed amendments support the State Plan's goal of protecting the environment and preventing air pollution by implementing a strategy of reducing air pollution at the source.

Housing Affordability Impact Analysis

Pursuant to N.J.S.A. 52:14B-4, as amended effective July 17, 2008, by P.L. 2008, c. 46, the Department has evaluated the proposed rulemaking to determine the impact, if any, on the affordability of housing. The proposed amendments allow refineries additional time to comply with the sulfur standard for No. 2 and lighter fuel oil. The Department has determined that the proposed amendments will evoke no change in the overall average cost associated with housing in the State.

Smart Growth Development Impact Analysis

In accordance with N.J.S.A. 52:14B-4, as amended effective July 17, 2008, by P.L. 2008, c. 46, the Department has evaluated the proposed rulemaking and determined that the proposed rulemaking will not impact housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed amendments relate to the allowable sulfur content in distillate oil, and do not impact housing production in the State.

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Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 9. SULFUR IN FUELS

7:27-9.1 Definitions

...

“Turn-around” means the major maintenance period, of at least a two-week duration, when the production equipment of a refinery unit is shut down to complete scheduled repairs or maintenance.

...

7:27-9.2 Sulfur content standards

(a) No person shall store, offer for sale, sell, deliver or exchange in trade, for use in New Jersey, fuel that contains sulfur in excess of the applicable parts per million by weight set forth in Tables 1A and 1B of this section, except as provided in (c), (d) and (e) below, **or N.J.A.C. 7:27-9.3(c)**. Fuel stored in New Jersey that met the applicable maximum sulfur content standard of Tables 1A or 1B of this section at the time the fuel was stored in New Jersey may be stored, offered for sale, sold, delivered or exchanged in trade, for use in New Jersey, after the effective date of the applicable standard in Table 1B.

(b) No person shall use fuel that contains sulfur in excess of the applicable parts per million by weight set forth in Tables 1A and 1B of this section, except as provided in (c), (d) and (e) below, **or N.J.A.C. 7:27-9.3(c)**. Fuel stored in New Jersey that met the applicable maximum sulfur content standard of Tables 1A or 1B of this section at the time it was stored in New Jersey may be used in New Jersey after the operative date of the applicable standard in 1B.

TABLE 1A

MAXIMUM ALLOWABLE SULFUR IN FUEL EFFECTIVE THROUGH JUNE 30, 2014
(EXCEPT AS SET FORTH IN N.J.A.C. 7:27-9.3(c))

(No change in Table.)

TABLE 1B

MAXIMUM ALLOWABLE SULFUR IN FUEL EFFECTIVE JULY 1, 2014, AND JULY 1,
2016 **(EXCEPT AS SET FORTH IN N.J.A.C. 7:27-9.3(c))**

(No change in Table.)

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(c)-(f) (No change.)

7:27-9.3 Exemptions and Extensions

{tc \11 "7:27-9.3 Exemptions}

(a) - (b) (No change.)

(c) Table 1A of N.J.A.C. 7:27-9.2 shall continue to be effective until no later than June 30, 2015 as to No. 2 and lighter fuel oil from any refinery, under the following conditions:

1. The refinery must provide the following to the Department, certified pursuant to N.J.A.C. 7:27-1.39(a)2:

i. Documentation that the refinery is to undergo a turn-around between July 1, 2014 and July 1, 2015;

ii. Documentation that refinery modifications to produce distillate fuel meeting a sulfur content standard of 500 ppm could not be accomplished by July 1, 2014 without causing a shut down of the refinery, in addition to the turn-around described in (c)1 above, and undue hardship to the facility; and

iii. A statement that all No. 2 and lighter fuel oil produced by the refinery to be offered for sale, sold, delivered or exchanged in trade for use in New Jersey, or to be used in New Jersey, shall meet the maximum allowable sulfur in fuel limits in Table 1B (otherwise effective July 1, 2014) within 30 days after restarting the refinery process after the turn-around, or July 1, 2015, whichever is earlier.

2. The information in (c)1 above must be received by the Department on or before July 31, 2013, by certified mail, personal delivery, or other means by which the Department's receipt can be documented. The address for submission of information is:

**Mail Code 401-02
New Jersey Department of Environmental Protection
Director, Air Quality Programs
401 East State Street, 2nd Floor
P.O. Box 420
Trenton, N.J. 08625-0420**

3. The refinery obtaining an extension in accordance with this subsection shall provide the following language to be included visibly and clearly on all product transfer documentation:

"Contains higher than 500 ppm sulfur fuel oil produced at (name of refinery that produced the fuel), which has a waiver of the 500 ppm sulfur standard until (date that is 30 days after the refinery process is restarted, but no later than July 1, 2015)."

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4. Any person, using or storing No. 2 or lighter fuel oil with a sulfur content greater than 500 ppm from a refinery having an extension in accordance with this subsection, must maintain the product transfer documentation received from the refinery bearing the language of (c)3 above on the site where the No. 2 or lighter fuel oil with greater than 500 ppm sulfur is used or stored for at least the period of time that fuel oil is being used or stored on-site. If the person transfers, distributes or moves all or a portion of the No. 2 or lighter fuel oil to another site, a copy of the product transfer documentation must accompany that transfer, distribution or move. The product transfer documentation must be made available to the Department upon request.

Based on consultation with staff, I hereby certify that the above statements, including the Federal Standards Analysis, addressing the requirements of Executive Order 27 (1994) and N.J.S.A. 52:14B-23, permit the public to understand accurately and plainly the purposes and expected consequences of this proposal. I hereby authorize this proposal.

Dated: _____

Bob Martin, Commissioner
Department of Environmental Protection